

# Committee on Resources

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Testimony by Representative George R. Nethercutt, Jr.

In Support of H.R. 1753, the Spokane Tribe of Indians Settlement Act

Before the House Committee on Resources

Subcommittee on Water and Power

October 2, 2003

Mr. Chairman and Members of the Committee, thank you for holding this hearing today and for the opportunity to present testimony today in support of H.R. 1753. This legislation would provide a settlement to the Spokane Tribe of Indians for losses suffered as a result of construction of the Grand Coulee Dam.

Similar settlement legislation was enacted in 1994 to compensate the neighboring Confederated Colville Tribes with the difference being that the Colville Tribes maintained a legal claim against the United States dating back to 1951. The claim held by the Colville Tribes was a land claim that the Colville Tribes were able to amend in 1976 to cover damages arising from the construction and operation of Grand Coulee Dam. While the Spokane Tribe had filed similar land claims, the Tribe had entered into settlement on those claims in 1967, approximately nine years prior to any indication that the U.S. might attempt to limit or eliminate its obligations to the Tribes regarding Grand Coulee Dam. As a consequence, the Spokane Tribe did not have a pending Indian Claims Commission claim to amend in 1976 as did the Colville Tribes.

The legislation which enacted a settlement to the Colville Tribes provided for a \$53 million lump sum payment for past damages payable by the U.S Treasury's Judgment Fund and roughly \$15 million annually from the ongoing proceeds from the sale of hydropower by the Bonneville Power Administration. At that time, the House Resources Committee noted "that the Spokane Tribe has a moral claim and requests that the Department of the Interior and the Department of Justice work with the Spokane Tribe to develop a means to address the Spokane's claim."

In 1997, BPA entered into negotiations with the Spokane Tribe and several meetings occurred without fruitful progress. I then introduced legislation in 1999 to provide a settlement to the Spokane Tribe directly proportional to the settlement afforded the Colville Tribes based upon the percentage of lands appropriated from the tribe for the Grand Coulee Project, or approximately 39.4 percent of the past and future compensation awarded the Colville Tribes.

Negotiations resumed and at the last meeting held in Spokane, on January 14, 2002, which I moderated, the Tribe presented what it believed to be a "middle ground" settlement offer equaling 29.3 percent of the Colville settlement and a one time "catch up" payment of \$29,234,000 that would cover back payments from fiscal year 1995 (the time when the Colville settlement was enacted) through 2002. The Tribe agreed to defer the receipt of the "catch up" payments in the first years following the settlement to ease passage of the legislation through Congress. In addition, the Tribe remained open to discussing alternative payment structure arrangements that would ease the impact on BPA ratepayers. The Administrator of BPA stated at this meeting that he felt a middle ground had been reached and he would "run the numbers" and respond to the Tribe within two weeks. We all left that meeting, Mr. Chairman, thinking that a settlement had been reached.

Four months later, on May 15, 2002, the Administrator of BPA finally responded to the Tribe's last offer, with a one-time promise of annual payments of 19.2 percent of the Colville settlement and a 19.2 percent structured "catch up" payment covering FY 1995 through FY 2002. The difference between the two proposals was estimated at the time to be between \$20 million and \$90 million.

Unfortunately, I believe we have now reached a point where negotiations between BPA and the Tribe will

proceed no further without additional direction from Congress. Therefore, I request that you approve this legislation so that the Federal Government may keep the word of our Nation to the Spokane Tribe.

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